

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF KINGMAN

THIS AGREEMENT is entered into 11th April, 2003, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF KINGMAN acting by and through its MAYOR and CITY COUNCIL (the "City")

### I. RECITALS

- 1 The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State
  - 2 The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City
  - 3 Such project within the boundary of the City has been selected by the City; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval
  - 4 The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended
  - 5 The City, in order to obtain federal funds for the construction of the project, is willing to provide City funds to match federal funds in the ratio required or as finally fixed and determined by the City and FHWA, including actual construction engineering and administration costs
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NO. 25955  
Filed with the Secretary of State  
Date Filed: 04/11/03

Janice K. Brewer  
Secretary of State

By: Vinny D. Haenewald

6 The work embraced in this agreement is the rehabilitation of the Kingman historic train depot; make the building ADA accessible; landscape the exterior and install lighting and street furniture and the estimated costs are as follows:

**TRACS No. SL494 01C**

**Design:** The City agrees to pay 100% of the design costs associated with the Project

**Construction**

Total cost of Federal-aid funds @ 94.3%	\$471,500.00
Kingman Funds @ 5.7%	\$ 28,500.00
<i>Total Kingman Construction Matching funds</i>	<u>\$ 28,500.00</u>
Estimated Construction Cost *	<u><b>\$500,000.00</b></u>
* 5% Surcharge of Construction Cost	
* 15% Construction Engineering Cost	

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

**II. SCOPE OF WORK**

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction, the City hereby agrees to be the authorized agent for the Project, and with the aid and consent of the State and the FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of the State and the FHWA, enter into a contract with a firm on behalf of the City to whom the award is made for the construction of the project; such project to be performed, completed, accepted and paid for in accordance with the instructions and requirements of the City and the Standard Specifications for Road and Bridge Construction of the Arizona Department of Transportation. The State will enter into a Project Agreement with FHWA on behalf of the City covering the work embraced in said construction contract and will request the authorized federal funds available, including construction engineering and administration costs.

b. Should costs exceed the maximum federal funds available, it is understood and agreed that the City will be responsible for any unforeseen conditions or circumstances increased of said costs required by a change in the extent or scope of the work called for in this agreement, the City shall be obligated to incur and will pay for said increased costs.

2. Prior to the solicitation of bids, the City shall deposit funds with the State in the amount determined to be necessary to match federal funds in the ratio required.

3. The City shall acquire the necessary right-of-way and hereby certifies that all necessary rights-of-way have been or will be acquired prior to advertisement for bid.

4. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right-of-way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use.

5. Upon completion of construction, the City shall provide for, at its own costs and as an annual item in its budget, proper maintenance, including, but not limited to:

- a. Arrange to have furnished and installed in its name, all necessary water services from water mains to the designated locations within the rights-of-way
- b. Furnish all water for landscape installation during the construction phase, and all water thereafter necessary to properly maintain the landscape, all at the City's expense.
- c. At the conclusion of the contractor maintenance and warranty period, referred to in the construction contract as landscaping Establishment, maintain the landscaping including all testing, adjusting, repairing and operation of the irrigation system, and shall furnish all electrical power necessary to operate the irrigation system
- d. Maintenance shall consist of the care of all landscaping in accordance with accepted horticultural practices. This includes keeping all areas free of weeds, undesirable grasses and litter, applying irrigation water, furnishing and applying insecticide/herbicide sprays and dust to combat diseases and other pests, pruning and replanting as required to maintain the landscaping as it was designed, and established at the completion of the Project
- e. Not make any changes, additions or deletions without written approval of the State. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual".
- f. Allow free public access to the Project improvements during normal business hours

### **III. MISCELLANEOUS PROVISIONS**

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees
2. The cost of the construction and construction engineering work covered by this agreement is to be borne by FHWA and City, each in the proportion prescribed or as fixed and determined by the FHWA as stipulated in this agreement. Therefore, City agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received
3. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual, unless assumed by another entity.
4. This agreement shall become effective upon filing with the Secretary of State
5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract

7. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 S 17th Avenue -- Mail Drop 616E  
Phoenix, AZ 85007  
FAX (602-712-7424

City of Kingman  
Community Development Department  
310 North Fourth Street  
Kingman, AZ 86401

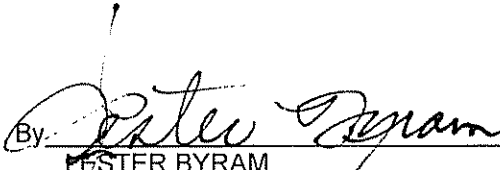
9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written

**CITY OF KINGMAN**

**STATE OF ARIZONA**

Department of Transportation

By:   
LESTER BYRAM  
Mayor

By:   
SUSAN TELLEZ  
Contract Administrator

ATTEST:

By:   
CHARLENE WARE  
City Clerk



**CITY OF KINGMAN, ARIZONA  
RESOLUTION NO. 3828**

**A RESOLUTION BY THE MAYOR AND COMMON COUNCIL  
OF THE CITY OF KINGMAN, ARIZONA; AUTHORIZING THE  
MAYOR TO SIGN AN INTERGOVERNMENTAL  
AGREEMENT WITH THE ARIZONA DEPARTMENT OF  
TRANSPORTATION, FOR THE KINGMAN TRAIN DEPOT  
REHABILITATION PROJECT. [JPA-02-098]**

**WHEREAS**, the City of Kingman has been awarded a Transportation Enhancement grant for the rehabilitation of the Kingman Train Depot in the amount of \$ 500,000.00, and

**WHEREAS**, the local match for this project is \$ 28,500.00, and

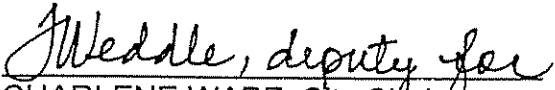
**WHEREAS**, ADOT administers this grant program for the Federal Highway Administration, and

**WHEREAS**, the approval of an intergovernmental agreement with ADOT outlining each parties rights and responsibilities is required before further processing of this project can proceed.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Common Council of the City of Kingman, Arizona, hereby authorize the Mayor to sign an intergovernmental agreement with the Arizona Department of Transportation for the Kingman Train Depot Rehabilitation project.

**PASSED AND ADOPTED** by the Mayor and Common Council of the City of Kingman, Arizona this 17th day of March, 2003.

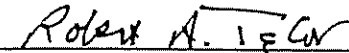
ATTEST:

  
CHARLENE WARE, City Clerk

APPROVED:

  
LESTER BYRAM, Mayor

APPROVED AS TO FORM:

  
ROBERT TAYLOR, City Attorney



INGOVERMENTAL AGREEMENT DETERMINATION

JPA 02-98

APPROVAL OF THE CITY OF KINGMAN ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF KINGMAN, and the STATE OF ARIZONA is an agreement among public agencies which has been reviewed pursuant to A.R.S. Section 11-952, as amended, by the undersigned City Attorney who has determined that it is in the proper form and is within the powers and authority granted by the CITY OF KINGMAN

DATED this 25 day of February, 2003

  
Robert A. Taylor, City Attorney



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

TERRY GODDARD  
ATTORNEY GENERAL

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE: 602.542.8855

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR03-0208TRN (JPA 02-098), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED April 1, 2003.

TERRY GODDARD  
Attorney General

A handwritten signature in cursive script, reading "Susan E. Davis", written over a horizontal line.

SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

/ss

att.

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